



CITY OF DANBURY

155 DEER HILL AVENUE

DANBURY, CONNECTICUT 06810

COMMON COUNCIL

REPORT

December 7, 2004

Mayor Mark D. Boughton
Members of the Common Council

Re: **Road Widening Easement and Drainage Easement – 146 South Street**

The Common Council Committee appointed to review the request for a road widening easement and a drainage easement at 146 South Street met three times, first on April 26, 2004, secondly on August 24, 2004 and finally on November 15, 2004. Present at all three meetings were Council Members Seabury, Barry and Visconti. Also present at the April 26th meeting were Deputy Corporation Counsel Eric Gottschalk, Director of Public Works William Buckley, Attorney Neil Marcus and Council Member Saracino, ex-officio. Present at the August 24th meeting were Attorney David Grogins and Council Member Teicholz, ex-officio. Finally, present at the November 15th meeting were Director of Public Works William Buckley, Corporation Counsel Robert Yamin, Attorney Neil Marcus and Council Members Nolan, Cavo and Saracino, ex-officio.

At the April 25th meeting, Mr. Seabury noted the positive recommendation from the Planning Commission. Mr. Buckley stated that the easements are for widening the road in front of CVS on South Street, as well as a sidewalk easement and a drainage easement from South Street to the little ball field.

Mr. Barry asked where the road-widening parcel is. Mr. Buckley said it is on South Street to allow for a right hand turn onto Memorial Drive. Mr. Barry asked Attorney Gottschalk how the work was done without the easements being in place. Attorney Gottschalk said he had no idea. Mr. Visconti asked how this was done without the approvals? Attorney Marcus said it is not uncommon for the Planning Commission to make this a requirement of a site development plan. They do the work, and then come to the Common Council to accept it. Attorney Gottschalk stated that it is unusual that the work was done on City property without rights being acquired. Mr. Buckley stated that the City could determine that the easements may cost \$10,000.

After further discussion, Mr. Visconti made a motion to continue the meeting to inquire as to the value of an easement from the Tax Assessor, a report on the project from the Planning Director, and a report from the Building Inspector on how a CO was issued on this building. Seconded by Mr. Barry. The motion carried unanimously.

At the August 24th meeting Mr. Seabury said the report from the Tax Assessor had not yet been submitted. Deputy Corporation Counsel Eric Gottschalk suggested that the committee authorize him to negotiate with CVS and report back to the committee with a settlement. Mr. Seabury said that the Tax Assessor asked for a few more weeks to complete the report. Mr. Barry stated that he was disappointed that there was no one present from the Corporation Counsel's Office or from Engineering; therefore Mr. Barry made a motion to grant the Tax Assessor the opportunity to issue an appraisal to Attorney Gottschalk, who is then authorized to negotiate with CVS for finalization, within a timeframe of thirty days. Seconded by Mr. Visconti. Motion carried unanimously.

At the November 15, 2004 Mr. Buckley gave an overview of the project. Mr. Buckley stated that at the April 26th meeting the committee had questions about how a certificate of occupancy was acquired and how it got past the Planning Department and the Zoning Commission and also requested a dollar value of the easements from the Tax Assessor. The road widening is not an issue; the issue is the drainage easement, which is discharged out through Rogers Park. This was done without getting an easement. The sidewalk easement should be accepted since the City requires the petitioners to widen them. The drainage easement should have been secured before it was built.

Mr. Seabury stated that the Tax Assessor placed the value of the easement at \$900.00. A discussion following as to how this fell through the cracks. Mr. Nolan said that the implementation of the newest modular of the planning and zoning software would red flag this now, but at the time the full implementation had not take place.

Mr. Barry made a motion to approve the granting of the road widening easement and the drainage easement at a cost of \$900. Seconded by Mr. Visconti. Motion carried unanimously.

Respectfully submitted,

GREGG SEABURY, Chairman

KEVIN BARRY

FRED VISCONTI